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BROOKLYN OFFICE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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HERBERT APONTE,

Plaintiff,

-against-

NOT FOR PUBLICATION

ORDER

NICOLE HOBOT; ROBERT SPERLING;  
DETECTIVE PAPAGALPAPIS, 114<sup>TH</sup> Precinct,  
Queens, NYPD, DETECTIVE COLLINS, 114<sup>th</sup>  
Precinct, Queens, NYPD; JOHN DOES 1-10; ADR  
Provider MICHAEL HORN, Assistant District  
Attorney for Borough of Queens, New York,

06-CV-0555 (CBA) (LB)

Defendants.  
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AMON, UNITED STATES DISTRICT JUDGE:

On or about August 23, 2005, plaintiff Herbert Aponte ("plaintiff") filed this *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983 in the United States District Court for the Middle District of Pennsylvania, alleging causes of action for false arrest, false imprisonment, and malicious prosecution. The case was transferred to the Southern District of New York on September 9, 2005. On December 13, 2005, that court ordered plaintiff to file an amended complaint, which he did, on December 29, 2005. Thereafter, on January 23, 2006, the case was transferred to this Court.


After being served with plaintiff's amended summons and complaint, the defendants requested and were granted two extensions of time to respond. A pre-motion conference was held on August 17, 2006, at which plaintiff failed to appear. Defendants then filed their motion to dismiss on August 31, 2006, which plaintiff failed to oppose. Several months later, on

November 13, 2006 the Court dismissed plaintiff's action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). At the time the action was dismissed, plaintiff had not filed anything in this case since February 21, 2006. On September 12, 2007, almost a year after dismissal and over a year-and-a-half after he last filed a document in this case, plaintiff reemerged and requested that this court vacate its November 13, 2006 order.

The Court referred plaintiff's motion to vacate to the Honorable Lois Bloom, United States Magistrate Judge for the Eastern District of New York, for a Report and Recommendation ("R&R"). On October 10, 2007, Magistrate Judge Bloom issued her R&R recommending that the Court grant plaintiff's motion to vacate, direct the Clerk of the Court to reopen the case, and order plaintiff to oppose defendants' August 31, 2006 motion to dismiss within 30 days. The parties' time to object to the R&R expired on October 24, 2007. No objections have been filed. Accordingly, the Court adopts Magistrate Judge Bloom's R&R as the opinion of the Court. Plaintiff's motion is granted and the Clerk of the Court is directed to reopen this case. Plaintiff shall have 30 days from the date of this order to oppose defendants' motion to dismiss.

SO ORDERED.

Dated: Brooklyn, New York  
November 16, 2007

/S/  
  
Carol Bagley Amon  
United States District Judge